

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF INDIANA

## **OPINION AND ORDER**

Plaintiff, Roy Arensman, a prisoner confined at the Miami Correctional Facility, submitted a complaint under 42 U.S.C. section 1983. Mr. Arensman alleges that the Superintendent of the Miami Correctional Facility, two staff psychologists, and two nurses violated his Federally protected rights by labeling him as “psychotic” and transferring him to an Indiana Department of Correction psychiatric facility. Pursuant to § 1915A(a), the court must review the merits of a civil complaint in which a prisoner seeks redress from a governmental entity or officer or employee of a governmental entity and dismiss it if the action is frivolous or malicious, does not state a claim on which relief may be granted, or seeks monetary relief against a defendant who is immune from such relief. Federal Rule of Civil Procedure 12(b)(6) provides for the dismissal of a complaint that does not state a claim upon which relief can be granted. The court applies the same standard under section 1915A as when addressing a motion under Rule 12(b)(6). *Weiss v. Cooley*, 230 F.3d 1027(7<sup>th</sup> Cir. 2000). As stated by the Seventh Circuit Court of Appeals:

A claim may be dismissed only if it appears beyond doubt that the plaintiff can prove no set of facts in support of his claim which would entitle him to relief. Allegations of a pro se complaint are held to less stringent standards than formal pleadings drafted by lawyers. Accordingly, pro se complaints are liberally construed.

In order to state a cause of action under 42 U.S.C. § 1983, the Supreme Court requires only two elements: First, the plaintiff must allege that some person has deprived him of a federal right. Second, he must allege that the person

who has deprived him of the right acted under color of state law. These elements may be put forth in a short and plain statement of the claim showing that the pleader is entitled to relief. Fed. R. Civ. P. 8(a)(2). In reviewing the complaint on a motion to dismiss, no more is required from plaintiff's allegations of intent than what would satisfy Rule 8's notice pleading minimum and Rule 9(b)'s requirement that motive and intent be pleaded generally.

*Alvarado v. Litscher*, 267 F.3d 648, 651 (7th Cir. 2001) (citations, quotation marks and ellipsis omitted).

Mr. Arensman asserts that on January 31, 2004, he began a religious fast that lasted forty days. He alleges that on February 13, 2004, the defendants labeled him as “psychotic” and transferred him to the New Castle Correctional Facility for the purpose of trying to get him to break his fast.

Because there is no federal statute of limitations for actions filed pursuant to § 1983, courts apply the most appropriate state statute of limitations. *Bell v. City of Milwaukee*, 746 F.2d 1205, 1229 (7th Cir. 1984); *Johnson v. City of Fort Lauderdale*, 903 F. Supp. 1520 (S.D. Fla. 1995), affirmed 114 F.3d 1089 (11th Cir. 1997). Section 1983 claims are considered as personal injury claims for purposes of determining the applicable state statute of limitations. *Wilson v. Garcia*, 471 U.S. 261 (1985). “Indiana law requires that any action for injuries to the person or character must be commenced within two years after the cause of action accrues. I.C. 34-11-2-4 (formerly Ind. Code § 34-1-2-2(1)).” *Doe v. Howe Military School*, 227 F.3d 981, 987 (7th Cir. 2001); *see also Snoderly v. R.U.F.F. Drug Enforcement Task Force*, 239 F.3d 892, 894 (7th Cir. 2001) (Two-year statute of limitations “is applicable to all causes of action brought in Indiana under 42 U.S.C. § 1983”). The statute of limitations is an affirmative defense, but if a plaintiff “pleads facts that show his suit is time-barred or otherwise without merit, he has pleaded himself out of court.” *Tregenza v. Great American Communications Co.*, 12 F.3d 717, 718 (7th Cir. 1993), *cert. denied*, 511 U.S. 1084 (1994).

The clerk of this court received the complaint in this case on November 16, 2006. The

“mailbox” rule established in *Houston v. Lack*, 487 U.S. 266 (1988), under which a prisoner’s submissions to the court are to be deemed as “filed” on the date he delivers it to prison authorities for forwarding to the district court, applies to the initial filing of complaints with the court. *Cooper v. Brookshire*, 70 F.3d 377 (5th Cir. 1995). At the screening stage, this court uses the date a prisoner signs the complaint as the date he delivered it to prison officials for mailing.

Mr. Arensman signed his complaint on November 13, 2006, so, for the purpose of this memorandum, the court will treat any events occurring before November 13, 2004, as beyond the statute of limitations. The complaint establishes that the all of the events Mr. Arensman complains of occurred before November 13, 2004, and are beyond the statute of limitations.

For the foregoing reasons, pursuant to 28 U.S.C. § 1915A(b)(2), the court DISMISSES this complaint.

SO ORDERED on December 18, 2006.

/s/ Theresa L. Springmann  
THERESA L. SPRINGMANN, JUDGE  
UNITED STATES DISTRICT COURT  
FORT WAYNE DIVISION